

# **On Geographic Indications**

## **Law of the Republic of Belarus**

*No. 127-Z of July 17, 2002*

*[as amended up to Law No. 109-Z of January 4, 2010]*

Adopted by the House of Representatives on June 18, 2002

Approved by the Council of the Republic on June 28, 2002

The present Law regulates the relations appearing in connection with the legal protection and use of the geographic indications.

### **Article 1. The Main Terms Used in the Present Law and Their Definitions**

1. Geographic name—an indicator that identifies the goods as originating from the territory of the country or from the region or locality on this territory, where a certain quality, reputation or other features of the goods are to significant extent connected with its geographical origin.

The term "geographic name" includes the terms "name of place of origin of goods" and "indicator of the origin of goods".

2. The name of place of origin of goods—the name of country, settlement, locality or other geographical object used for indicator of goods, the certain features of which are exclusively or mainly determined by the natural conditions or other factors or composition of natural conditions and these factors typical for this geographical object.

The name of place of origin of goods can be a historic name of the geographical object.

The indicator, that is, though, being the name of geographical object or containing the name of geographical object, but being in the Republic of Belarus in common use as the indicator of goods of certain kind and not connected with the place of its manufacture, is not considered the name of place of origin.

3. The indicator of origin of goods—indicator that is directly or indirectly indicating the place of factual origin or manufacture of goods.

The indicator of origin of goods can be presented as the name of geographic object or image.

4. Geographical object—any territory with the officially fixed borders, for example, the country, region as a part of the country, settlement, locality.

5. An application to registration and granting the right of use of name of place of origin of goods—the total documents necessary for registration or for granting the right to use the name of place of origin of goods that is already registered.

6. An applicant—a natural or legal person or a group of persons that have submitted the application.

7. A competent body—the state body authorized by the Council of Ministers of Republic of Belarus to establish the borders of the geographical object, where the goods are manufactured, the special features of which are determined by the natural conditions or other factors or by the composition of the natural conditions and these factors typical for that geographical object, with which any of the features of the goods are connected, and also to give the resolution on the fact that the applicant is located in the given geographical object.

8. Certificate on right to use the name of origin of goods—a document certifying the exclusive right of its owner to use the name of place of origin of goods.

## **Article 2. Granting the Legal Protection to the Geographic Indications**

1. The legal protection to the names of origin of goods in the Republic of Belarus is granted on the ground of its registration in the National Center of Intellectual Property. On the basis of registration the certificate on the right to use the name of place of origin of goods is issued.

2. The name of place of origin of goods can be registered by the several persons together for indicator of the goods manufactured by them on the territory of the certain geographical object, the specific features of which are exclusively or mainly determined by the natural conditions or other factors or by the composition of natural conditions and these factors typical for this geographical object. The right to use the name of place of origin of goods belongs to each of them.

The right to use the name of place of origin of goods registered in the established order can be granted to any legal or natural person being in that geographical object and manufacturing the goods with the same qualities.

3. The legal protection of the indicator of origin of goods is carried out on the basis of use of this indicator.

The legal protection of the origin of goods lies in banning the usage of false indicators of origin of goods and also the indicators bringing the consumer to confusion in relation to the real place of origin of goods.

The indicator of origin of goods is not subject to the state registration.

## **Article 3. The Scope of Legal Protection of Geographic Indications**

1. In the Republic of Belarus the legal protection is granted to the geographic name being on the territory of the Republic of Belarus.

2. The legal protection of name of place of origin of goods being in another state is granted in the Republic of Belarus, if the name of place of origin of goods is registered in the country of goods origin and in the Republic of Belarus in accordance with the legislation.

3. The legal protection of indicator of origin of goods being in another state is granted in the Republic of Belarus, if such indicator is used in the country of origin of the goods.

**Article 4.** The Application to Registration and Granting the Right to Use the Name of Place of Origin of Goods

1. The application to registration and granting the right to use the name of place of origin of goods (hereinafter—the application) is submitted to the patent body by the applicant (applicants) directly or through the patent attorney registered in the patent body.
2. The foreign legal persons and natural persons permanently living beyond the borders of the Republic of Belarus, or their patent attorneys conduct the activities for the reception of the certificates on the right to use the name of place of origin of goods through the patent attorneys registered in the patent body of the Republic of Belarus.
3. The application shall concern only one name of place of origin of goods.
4. The application shall contain:
  - 4.1. application on registration and granting the right to use the name of place of origin of goods or on granting the right to use the name of place of origin of goods that is already registered with the notification of the applicant (applicants) and also its (their) place of location or place of residence;
  - 4.2. claimed indicator;
  - 4.3. indicator of goods for indicator of which the registration and granting the right to use the name of place of origin of goods or granting the right to use the name of place of origin of goods, that is already registered, is asked, with the notification of the place of its manufacture (the borders of geographical object);
  - 4.4. the description of the specific features of the goods.
5. To the application the following shall be enclosed:
  - 5.1. for national applicant (natural or legal person of the Republic of Belarus)—resolution of the competent body on the fact that the applicant is located in the mentioned geographical object and manufactures the goods, the specific features of which are determined by the natural conditions or other factors or composition of natural conditions and these factors typical for the given geographical object;
  - 5.2. for the foreign applicant—a document proving his right to use the claimed name of place of origin of goods in the country of goods origin;
  - 5.3. a document proving the payment of patent duty in the established amount.
6. The date of submitting the application to the patent body is established by the date of incoming of document provided by the point 4 of the present article, and if the mentioned documents are presented not at once—by the date of incoming of the last of the documents presented.
7. Requirements for the documents of the application are established by the Council of Ministers of the Republic of Belarus.

## **Article 5. Expertise of the Application**

1. An expertise of the application is carried out by the patent body and includes the preliminary expertise and an expertise of the claimed indicator conducted in accordance with the present Law and rules established by the patent body.

2. In the period of conducting the expertise of the application till taking the decision on it the applicant has the right to amend, specify or correct the materials not having the nature of the application.

If the amended material changes the nature of the application, such materials are not accepted for consideration and can be registered by the applicant as the separate application.

3. If submitted documents or data contained in them don't conform to the established requirements the patent body directs the request to the applicant with proposal to submit correctly drawn up materials within the two months term from the date of receipt of the request. Under the petition of the applicant this term can be prolonged, but not more than for twelve months providing the petition has come in before the expiry of this term. If within the specified term the applicant doesn't submit the requested materials or petition on prolonging of the established term, there is taken the decision on refusal of registration of the name of place of origin of good and giving the right to use it or on refusal of giving the right to use the name of place of origin of good which has been already registered, on which the applicant is informed.

4. The applicant can recall the application at any stage of its consideration.

5. The preliminary expertise of the application is conducted within three months form the date of its submission.

In the course of conducting the preliminary expertise of the application the content of the application, presence of the necessary documents, observance of the requirements established for it, the payment of patent duty are checked.

Under the results of preliminary expertise the application is accepted for consideration on which the applicant is informed.

6. At acceptance of the application to consideration in accordance with the point 6 of the article 4 of the present Law the date of submission of the application is established.

7. The expertise of the claimed indicator is conducted under the application accepted to consideration, within which it is determined whether the claimed indicator is the name of the country, settlement, locality or other geographical object, including the historic name of the geographical object used for indicator of goods, the special features of which are exclusively or mainly determined by the natural conditions or other factors or the composition of natural conditions and these factors typical for such geographical object.

Indicator being, though, the name of geographical object or containing the name of geographical order or containing the name of geographical object but being in the Republic of Belarus in common use as the indicator of goods of the certain kind not connected with the place of its manufacture is not considered the name of place of origin of goods.

8. Under the results of expertise the patent body takes one of the following decisions on:

registration of the name of place of origin of goods and granting the right to use it;

refusal to register the name of place of origin of goods and to grant the right to use it;  
grant the right to use the name of place of origin of goods that is already registered;  
refusal to grant the right to use the name of place of origin of goods that is already registered.

#### **Article 6.** Appealing the Decision on Application

1. If the applicant does not agree with the decision of the preliminary expertise or expertise of the claimed indicator he has the right to submit the appeal within one year from the date of reception of the decision to the Appeal Council at the patent body (hereinafter—Appeal Council).
2. The appeal shall be considered within one month from the date of its reception by the Appeal Council. The order of consideration of the appeals by the Appeal Council is established by the patent body.
3. The decision of the Appeal Council can be appealed by the applicant to the High Court of the Republic of Belarus within 6 months from the date of reception of the decision.

#### **Article 7.** Registration of the Name of Place of Origin of Goods and Issue of the Certificate on Right to Use the Name of Place of Origin of Goods

1. On the grounds of the decision of the expertise the patent body conducts the registration of the name of place of origin of goods in the State Register of names of places of origin of goods of the Republic of Belarus (hereinafter—the Register). In the Register the information related to registration and granting the right to use the name of place of origin of goods and also the further changes of such information are introduced. The composition of the data is determined by the patent body.
2. The issue of the certificate on right to use the name of the place of origin of goods (hereinafter—the certificate) is conducted by the patent body after the registration of the name of place of origin of goods in the Register at the condition of paying the established patent duty.
3. The form of the certificate and the composition of the information noted in it is established by the patent body.

#### **Article 8.** The Term of Validity of the Certificate

1. The certificate is in effect within 10 years from the date of submitting the application to the patent body.
2. The term of validity of the certificate can be prolonged under the application of its owner submitted within the last year of validity of the certificate up to 10 years at presence of the conditions giving the right to use the name of place of origin of goods. The prolongation is possible unlimited number of times.

3. Under the petition of the owner of the certificate for the prolongation of the term of validity of the certificate he can be granted the 6 months term after the termination of the term of validity of the certificate at condition of payment of patent duty.

4. The note on prolongation of the term of validity of the certificate is introduced by the patent body to the Register. Under the request of the owner of the certificate the same note is introduced to the certificate.

5. To the application on prolongation of the term of validity of the certificate the following shall be enclosed:

5.1. for the owner of the certificate—the natural or legal person of the Republic of Belarus—the resolution of the competent body on the fact, that the owner is being at the given geographical object and manufactures the goods with the features mentioned in the certificate;

5.2. for the foreign owner of the certificate—the document proving his right to use the name of the place of origin of goods in the country of goods origin;

5.3. the document proving the payment of patent duty at the established amount.

#### **Article 9.** Introduction of Changes to the Register and the Certificate

1. The owner of the certificate notifies the patent body on changes of his last, first and middle name, and also on other changes related to registration and granting the right to use the name of the place of the origin of goods.

2. The note on changes is introduced to the Register and under the request of the owner of the certificate—to the certificate on the condition of paying patent duty.

3. The patent body can under its initiative introduce the corrections of the grammar and other vivid mistakes to the Register. Under the request of the owner of the certificate the changes are introduced to the certificate.

#### **Article 10.** Publication of the Information on Registration and Granting the Right to Use the Name of Place of Origin of Goods

The information relating to the registration and granting the right to use the name of the place of origin of goods and introduced to the Register are published by the patent body in its official bulletin.

#### **Article 11.** Registration of the Name of Place of Origin of Goods in Foreign States

1. The legal and natural persons of the Republic of Belarus have the right to register the name of place of origin of goods in a foreign state.

2. Submission of the application on registration of the name of place of origin of goods in the foreign states is conducted after its registration and reception of the right to use this name of place of origin of goods in the Republic of Belarus.

## **Article 12. Patent duties**

1. For performing legally meaningful actions connected with the registration of the name of place of goods' origin and with granting the right to use of the name of place of goods' origin the patent duties shall be collected.
2. The list of legally meaningful actions, for which patent duties are collected, the payers, the rates, the order and terms of payment of patent duties, the benefits to the special categories of patent duty payers or the basis of patent duty back shall be established by the President of the Republic of Belarus and (or) by laws, if another is not established by the President of the Republic of Belarus.
3. The order of usage of the patent duties is determined by the legislative acts of the Republic of Belarus.

## **Article 13. Using the Geographic Indications**

1. The usage of the geographic indications is considered to be the application of it on the goods, packing, in advertisement, prospects, accounts, and also by other means in connection to the introduction of the goods to the civil circulation.
2. The usage of the registered name of place of origin of goods by the persons not having the certificate, even if at that the true place of origin of goods or the name is used in translation or in composition with such expressions as "kind", "sort", "type", "style", "imitation" and others and also the usage of similar indicator for any goods able to bring the consumer to the confusion in regard to the place of origin and special features of the goods, is not allowed.
3. A person having bona fide used the name of geographical object, equal or similar to the registered name of place of origin of goods not less than before the six months till the date of its first registration, keeps the right to its further usage within the term established by the patent body but not more than two years from the date of the mentioned registration.
4. Concession of the right to use the geographic name and granting the right to use it on the basis of a license is not allowed.

## **Article 14. Warning Marking**

The owner of the certificate can put together with the name of place of origin of goods a warning mark as a Latin letter R or R in a circle—or in the words—"the name of place of origin of goods" or "registered name of place of origin of goods" indicating that the applied indicator is the name of place of origin of goods registered in the Republic of Belarus.

## **Article 15. Recognition of the Registration of the Name of Place of Origin of Goods and the Certificate Invalid**

1. Registration of the name of place of origin of goods can be recognized invalid, if it has been conducted with the infringement of the requirements established by the present Law.

2. The certificate can be recognized invalid, if it has been issued with the infringement of the requirements established by the present Law.

3. Any person can submit a objection to the Appeal Council against:

registration of the name of place of origin of goods;

issue of the certificate on the right to use the name of place of origin of goods.

The order of consideration of the objections is established by the patent body.

The decision of the Appeal Council can be appealed to the High Court of the Republic of Belarus within 6 months from the date of its reception.

#### **Article 16.** Termination of the Validity of Registration of the Name of Place of Origin of Goods and the Certificate

1. The effect of the registration of the name of place of origin of goods can be terminated in connection with the disappearance of the features typical conditions for the given geographical object and impossibility of manufacture of the goods with the features set forth in the Register.

2. The effect of registration of the name of place of origin of goods on behalf of the foreign legal or natural person can be terminated also in connection with the loss of the right to the given name of place of origin of goods in the country of the goods origin.

3. The validity of the certificate can be terminated:

3.1. in connection with the loss of the specific features by the goods mentioned in the Register in relation to the given name of place of origin of goods;

3.2. in connection with the termination of the effect of registration of the name of place of origin of goods;

3.3. in case of the death of the natural person-the owner of the certificate—at the absence of successor, and in case of liquidation of the legal person—the owner of the certificate—on the basis of the application of any person submitted to the patent body.

3.4. on the basis of the application submitted to the patent body by the owner of the certificate.

4. Any person on the grounds provided by point 1, 2 and sub-point 3.1 of the point 3 of the present article can submit the application on termination of the validity of registration of the name of place of origin of goods and the certificate to the Appeal Council. The order of consideration of the application by the Appeal Council is established by the patent body.

The decision of the Appeal Council can be appealed to the High Court of the Republic of Belarus within six months from the date of its reception.

5. Registration of the name of place of origin of goods and the certificate are annulled by the patent body in case of recognition of them invalid, and also under the grounds determined by the point 1, 2 and 3 of the present article.

## **Article 17. The Patent Body**

The patent body takes the applications on registration of the names of places of origin of goods to the consideration, conducts the expertise on them, conducts the State Register of the names of places of origin of goods of the Republic of Belarus, issues the certificates valid on all territory of the Republic of Belarus, within the limits of its powers carries out the control over observance of the legislation in the sphere of protection of geographic indications, generalizes the practice and gives explanations on its application, renders methodological assistance on the mentioned questions and services to the persons interested.

## **Article 18. Responsibility for the Infringement of Legislation on Geographic Indications**

1. A person carrying out the warning marking in relation to the not registered name of place of origin of goods, bears responsibility in accordance with the legislation of the Republic of Belarus.

2. A person having the right to use the geographic name has the right to demand from the person who illegally uses such name to stop such usage, elimination of it from the goods, its packing, blanks and other documentation of the illegally used geographic name or indicator similar to it to the extent of confusion, elimination of the manufactured images of geographic name or indicator similar to it to the extent of confusion, and if it is impossible—its seizure and destruction of goods and (or) packages.

A person having the right to use the geographic name has the right to demand the infringer of this right to compensate the damages born.

## **Article 19. Consideration of the Disputes Connected With the Infringement of the Legislation on Geographic Indications**

Disputes connected with the infringement of legislation on geographic indications are considered by the Appeal Council and the High Court of the Republic of Belarus in accordance with its competence.

## **Article 20. International Treaties**

If the international treaty of the Republic of Belarus that is ratified and is in force establishes other rules than those that are contained in the present Law, the rules of international treaty are applied.

## **Article 21. Rights of the Foreign Citizens, Persons without Citizenship and Foreign Legal Persons**

Foreign citizens, persons without citizenship and foreign legal persons have the right provided by the present Law, other acts of legislation of the Republic of Belarus in the sphere of protection of geographic indications and bear responsibility equally to the citizens and legal

persons of the Republic of Belarus, if otherwise is not determined by the legislative acts of the Republic of Belarus and international treaties.

**Article 22.** Entry into Force of the Present Law

1.The present Law enters into force after 6 months from the day of its official publication except for the article 23.

2.Article 23 of the present Law enters into force from the day of its official publication.

3.Before bringing the legislation of the Republic of Belarus in accordance with the present Law the normative legal acts of the Republic of Belarus are applied in that part, in which they do not contradict the present Law, if otherwise is not established by the Constitution of the Republic of Belarus.

**Article 23.** Bringing the Legislative Acts of the Republic of Belarus in Accordance with the Present Law

The Council of Ministers of the Republic of Belarus within six month term from the day of publication of the present Law shall:

prepare and introduce to the Chamber of Representatives of the National Assembly of the Republic of Belarus suggestions on bringing the legislative acts of the Republic of Belarus in accordance with the present Law in established order;

bring the decisions of the Government of the Republic of Belarus in accordance with the present Law;

provide the review and abolishment by the republican bodies of state management accountable to the Council of Ministers of the Republic of Belarus their normative legal acts contradicting to the present Law;

provide the adoption of the normative legal acts necessary for realization of the present Law.

\* unofficial translation \*

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